

AGREEMENT TO PROVIDE LEGAL SERVICES

**COMMONWEALTH OF MASSACHUSETTS
COMMITTEE FOR PUBLIC COUNSEL SERVICES**

AND

(Assigned Counsel Program)

This Agreement is entered into on the date set out below, by and between the COMMITTEE for Public Counsel Services of the Commonwealth of Massachusetts, hereinafter referred to as "COMMITTEE" and **Assigned Counsel Program, INC.**, hereinafter referred to as "CONTRACTOR."

In consideration of mutual covenants, promises and presentations, the parties referred to above do hereby agree as follows:

ARTICLE I

PROVISION AND OVERSIGHT OF LEGAL SERVICES

1. **Assignment of Counsel**

- a. The CONTRACTOR shall assign certified duty attorneys to represent indigent defendants in delinquency proceedings in the Juvenile Court Department, in criminal proceedings in the Superior Court Department and in criminal and delinquency proceedings in the following courts of the Commonwealth in the county of **xxxxxxx**:

xxxxxxx District Court

xxxxxxx District Court

- b. The CONTRACTOR shall assign certified counsel to provide representation on all assigned cases from arraignment through trial and any bail review, and shall provide vertical representation. The term "vertical representation" as used in this Agreement shall refer to representation by the same attorney throughout all proceedings in the courts requiring an assignment, beginning with arraignment, except when the attorney has not been certified by the COMMITTEE to handle the case. Further, the CONTRACTOR shall insure that probable cause felonies are only assigned to, or are immediately after assignment re-assigned to, attorneys who are included on the COMMITTEE'S Superior Court panel. The CONTRACTOR shall insure that Youthful Offender prosecution cases in the juvenile courts and courts listed in Article I.

assignment reassigned, to attorneys certified to handle Youthful Offender cases.

- c. The CONTRACTOR shall prepare and disseminate schedules for attorney assignments on a periodic basis no less than thirty (30) days prior to the commencement of the next time period and shall make copies of the schedules available to the COMMITTEE upon request.

The Contractor shall maintain e-mail addresses for participating attorneys and shall communicate with panel attorneys and disseminate schedules by email. If CONTRACTOR creates and/or maintains an internet "listserve" for the use of its panel attorneys, CONTRACTOR shall insure that the listserve is used solely for the purpose of supporting the quality of client representation.

- d. Attorneys shall serve on a rotating basis. The CONTRACTOR shall institute administrative mechanisms to insure that no duty attorney shall be assigned to handle an unreasonably large number of arraignments on any duty day. All duty day assignments and re-assignments shall be made or approved by the CONTRACTOR to insure that duty days which cannot be covered by a previously assigned duty attorney are distributed equitably among the panel attorneys.
- e. The CONTRACTOR shall consult with the CPCS staff offices in its county as part of its preparation of the duty day schedule. The CONTRACTOR shall reserve for the staff offices duty day slots in a number that will allow the staff attorneys to maintain appropriate caseloads for the efficient delivery of legal services. CONTRACTOR will inform the staff offices at least 2 weeks in advance of when they will be creating any such schedule, so that these offices will have sufficient time to request duty day slots.

2. Oversight of Legal Services

a. Supervising Attorneys

The CONTRACTOR shall assure that zealous advocacy consistent with the COMMITTEE'S published Performance Guidelines is

provided by all attorneys assigned under this Agreement. To this end, the CONTRACTOR shall oversee, in cooperation with Committee Staff, Supervising Attorneys to monitor and evaluate the panel attorneys' performance, to provide technical assistance and training, and to investigate complaints regarding the performance or conduct of assigned counsel.

Supervising Attorneys shall be selected by a process conducted jointly by the Contractor and the Committee, including advertising, interviewing, and final selection.

b. Term of Supervising Attorneys

Supervising Attorneys, upon selection, shall enter into a contract with the Committee for a term of one year.

c. Qualifications of Supervising Attorneys

To be eligible for selection, a prospective Supervising Attorney must possess the following qualifications:

1. For supervision of criminal matters, the attorney shall possess sufficient criminal jury trial experience to qualify for Superior Court case assignments by the COMMITTEE.
2. For supervision of delinquency matters, the attorney shall possess sufficient jury trial experience to qualify for Youthful Offender case assignments.
3. The attorney shall have received no public discipline by the Board of Bar Overseers in the preceding five years.
4. The attorney shall not be a member of the CONTRACTOR's Board of Directors at the time of the submission of his or her application for a supervising attorney position.

3. Selection of Panel Attorneys

The CONTRACTOR will insure that attorneys who are assigned duties under this Agreement are members in good standing of the Massachusetts Bar and are qualified to practice law before the

Massachusetts courts in accordance with the rules of the Supreme Judicial Court of the Commonwealth. Membership in any bar association shall not be a condition of full participation in the program, nor shall residency or office location within the county (absent a showing that the attorney's office location would interfere with the provision of accessible, high quality services).

The CONTRACTOR shall select and maintain a panel of attorneys of sufficient number to insure that participating attorneys do not exceed the COMMITTEE'S limits on caseloads and hours of work. The CONTRACTOR shall insure that the panel remains open to new applicants in accordance with SJC Rule 1:07(2). Attorneys shall be selected for participation jointly by the Contractor and the Supervising Attorney(s). Every application shall be reviewed by at least one Supervising Attorney. Panel attorneys shall be selected according to the following criteria:

- Criminal or delinquency trial experience
- Languages spoken
- Contribution to panel diversity
- Demonstrated commitment to indigent defense or other indigent services
- Academic background
- Possession of related skills
- Writing skills
- Ability to provide juvenile delinquency representation

4. District and Juvenile Court Certification

New district and juvenile court panel members shall be evaluated within two years of their provisional certification date, and the CONTRACTOR shall return the District and Juvenile Court Certification Recommendation Form (Attachment E) for an attorney to the Private Counsel Division Certification Coordinator within two years of that attorney's joining the CONTRACTOR's program.

5. Resource Attorney Program

The CONTRACTOR shall provide mentoring by assigning Resource Attorneys to supplement in individual cases case preparation advice and assistance provided by the Supervising Attorney.

To qualify for assignment as a Resource Attorney, an attorney shall possess sufficient jury trial experience to qualify for Superior Court or Youthful Offender case assignments and shall accept at least 50 case assignments per year originating in the district court. A Resource Attorney or applicant may request waiver of the required 50 case assignments. With the prior approval of the COMMITTEE, district court certified attorneys with substantial recent jury trial experience may serve as Resource Attorneys.

Resource Attorneys shall be compensated at the mentor rate set out in the Manual for Assigned Counsel for assistance in assigned cases by billing submitted to the COMMITTEE, and shall be selected for two year terms by the CONTRACTOR in consultation with the Supervising Attorney and subject to approval by the COMMITTEE.

Resource Attorney bills shall specify the cases and attorneys for which assistance was provided, as specified by the COMMITTEE.

Each attorney who is not certified for Superior Court or Youthful Offender case assignments shall be assigned a Resource Attorney by the CONTRACTOR. Such assignment may be waived by the Contractor for attorneys possessing sufficient jury trial experience after consultation with the Committee. Each Resource Attorney shall be assigned no more than 20 participating attorneys or 1/5 of the participating attorney panel, whichever is less. The CONTRACTOR shall direct Resource Attorneys to provide technical assistance to participating attorneys as needed for not more than five hours per quarter per attorney assisted, unless directed by the CONTRACTOR to provide ten hours per quarter in specified cases. To exceed ten compensable hours per quarter for a participating attorney, permission of the COMMITTEE is required.

The CONTRACTOR shall take appropriate action to ensure that Resource Attorneys meet with new panel attorneys to whom they are assigned before the new attorney's first duty day and one month after their first duty day, to review files of their first assigned cases. For new panel attorneys who have had no prior jury trial experience, the Resource Attorney must meet with the attorney at least one week prior to their first

scheduled trial.

6. Attorney Contracts

The CONTRACTOR shall enter into annual contracts with participating attorneys, the provisions of which are specified or approved by the COMMITTEE, including:

a. Liability Insurance

Said contracts shall require the maintenance of malpractice insurance consistent with COMMITTEE policy.

b. Bar Discipline or Criminal Charges

Annual contracts shall require participating attorneys to immediately notify both the Contractor and the Committee of any criminal charge against the attorney or any decision by the Board of Bar Overseers to impose discipline.

c. Scheduling Data

Annual contracts shall include a statement by the participating attorney that s/he seeks, for the contract period, subject to his or her ability to comply with CPCS performance standards and caseload limits:

- (1) Duty days as regularly scheduled in rotation by the Contractor in any court in the county for which the attorney is certified, or
- (2) A designated number of duty days in designated courts or
- (3) Individual case assignments depending on the attorney's current caseload.

7. Reports

- a. The CONTRACTOR shall routinely monitor the performance of assigned attorneys through communication with judges, court personnel and others, including clients, where appropriate (e.g., complaint investigation), and shall recommend to Supervising Attorneys those panel attorneys who should receive Performance Assessments described below.

- b. The CONTRACTOR shall report on its activities to the COMMITTEE monthly by completing the Monthly Monitoring Report form incorporated herein as Attachment CPCS-C, to be received by COMMITTEE staff not later than the fifth day of each month; and shall remove from its panel any attorney failing to provide competent representation consistent with the COMMITTEE'S performance guidelines according to a procedure established or approved by the COMMITTEE.
- c. The CONTRACTOR shall obtain and review copies of Performance Assessment Reports prepared by the Supervising Attorneys monthly, in such form as agreed to by the CONTRACTOR and the COMMITTEE incorporated herein as Attachment CPCS-D, identifying each attorney by name.

Subject to statutory requirement, court order or similar mandate, the COMMITTEE and the Contractor shall maintain the Performance Assessment Report, Attachment CPCS-D, exclusively for internal use in the performance of their statutory responsibilities pursuant to Massachusetts General Laws, Chapter 211D. Internal use includes the sharing of an Attorney's Performance Assessment Report with other county Bar Advocate Programs of which that Attorney is a member. The Performance Assessment Report shall not be disseminated to any person or organization for any other purpose without the prior written consent of the attorney being evaluated and shall be destroyed after six (6) years.

- d. The CONTRACTOR shall include in its monthly report the following:

- 1. Monthly contact by Program Staff with personnel from each court.

- 2. Information regarding:

- a. All actions taken by the program to enhance the quality of representation or to address performance problems, such as:

- 1. reduction of duty days or court

assignments

2. special arrangements made with courts regarding attorneys

3. investigation of anonymous complaints

b. All attorneys resigning, suspended, removed or leaving program for whatever reason.

c. Plans for selection of attorneys for performance assessments, by the Supervising Attorneys.

d. Selection procedures conducted for new attorneys.

e. Training programs conducted.

8. Complaint Investigation

a. Coordination with the COMMITTEE'S Complaint Procedure

The CONTRACTOR agrees to cooperate with any complaint investigation and/or remedial action taken on a complaint by the COMMITTEE. Upon the request of the COMMITTEE, it will investigate or assist in investigation by the Supervising Attorney and take appropriate action on any complaint that an attorney is not or has not been representing clients in accordance with the COMMITTEE'S Performance Guidelines.

The COMMITTEE may conduct preliminary or additional investigation of complaints, and take further disciplinary action in accordance with COMMITTEE policy.

b. Telephone Access for Prisoners

To effectively receive or investigate client complaints, the CONTRACTOR shall maintain a means

for receiving collect telephone calls from incarcerated clients.

c. Timeline

1. The CONTRACTOR shall immediately notify the COMMITTEE upon receipt of information providing reason to believe that a participating attorney is rendered unable to provide proper client representation by illness, physical or mental, or by substance abuse. Complaints alleging that an attorney is rendered unable to provide representation due to illness, physical or mental, or substance abuse, intake having been reported to the COMMITTEE and the appropriate Supervising Attorney on the date of receipt, will be investigated by the Supervising Attorney within 15 days, except for extension for good cause requested in writing.

The Contractor shall immediately notify the Committee upon receipt of information providing reason to believe that a participating attorney is charged with a crime or is subject to a decision by the Board of Bar Overseers to impose discipline.

2. Complaints alleging neglect by failure to communicate with the client shall be investigated by the CONTRACTOR, with the assistance of the Supervising Attorney if needed, within 15 days of intake, except for extension for good cause stated in writing in the Monthly Report, and shall be reported to the COMMITTEE in the Monthly Report (Attachment CPCS-C).
3. All other complaints will be investigated by the Supervising Attorney within 30 days, except for extension for good cause stated in writing in the Monthly Report, and shall be reported to the COMMITTEE in the Monthly Report. (Attachment CPCS-C).
4. Complaint Intake Report: When a complaint regarding attorney performance is received by the

staff of the COMMITTEE or the CONTRACTOR, an Intake Report shall be completed, which Report appears as Attachment F to this Contract. When complaint intake is by COMMITTEE staff, the Intake Report will be transmitted to the CONTRACTOR within seven (7) days. When complaint intake is by the CONTRACTOR, the Intake Report will be transmitted to the COMMITTEE electronically, by entering it into the on-line complaint database, within seven (7) days, except complaints described at I(6)(c)(1) above which shall be transmitted on the date of receipt. The Contractor shall at the same time transmit all Complaint Intake Reports to the appropriate Supervising Attorney for investigation.

5. Upon conclusion of any complaint investigation, the CONTRACTOR shall oversee completion by the Supervising Attorney of an Investigation Report, which Report appears as Attachment G to this Contract. The Investigation Report shall be submitted to the COMMITTEE electronically, by entering it into the on-line complaint database, consistent with the timeline set out above.

9. Training

- a. To ascertain the need for training in jury trial skills, the CONTRACTOR shall obtain annually from each participating attorney a list of criminal cases tried to jury verdict in the preceding year including the name, court and docket number. Subject to the preparation and provision to the CONTRACTOR by COMMITTEE staff of appropriate training materials, the CONTRACTOR shall conduct annually before October 15 a jury trial skills training program. This program shall consist of at least (12) hours of training, and shall be required of all attorneys who did not try a case to jury verdict in the preceding year. The CONTRACTOR may waive this requirement for an attorney who demonstrates that s/he has tried six or more criminal cases to jury verdict in the preceding five years.

- b. The Contractor shall report to the Committee on a quarterly basis in a format prescribed by the Committee the hours of training, required by the Committee Contractor, attended by the Contractor's panel attorneys.
- c. The CONTRACTOR shall not schedule any attorney who has failed to meet his CLE requirements to appear for a duty day, or assign any new case to that attorney, until the attorney has met those requirements. . The CONTRACTOR shall notify any said attorney that he or she may not accept new cases until the CLE requirement is met.

10. Computer Equipment

The CONTRACTOR shall reserve the use of computer equipment provided by the COMMITTEE to its duties under this contract.

ARTICLE II

ADMINISTRATION AND FINANCIAL MANAGEMENT

1. The CONTRACTOR shall not assign, subcontract, or in any way transfer any interest in this Agreement without the prior written consent of the COMMITTEE. The COMMITTEE reserves the right to deal directly with the transferee, assignee, or subcontractor in the event of such an occurrence; and the CONTRACTOR shall remain bound by all of the terms in this Agreement in accordance with its original tenor and terms.
2. The CONTRACTOR is not authorized by virtue of this Agreement to incur any indebtedness or liability on the part of the COMMITTEE, to pledge the credit of the COMMITTEE or the Commonwealth or any department, agency or subdivision thereof, its agents, officers or employees, or to bind the COMMITTEE or the Commonwealth of Massachusetts, its officers, agents and employees, or any other official thereof in any manner.
3. The CONTRACTOR is not authorized to impose any fees or required financial contributions on participating attorneys, except the

cost of training presentations. Any solicitation for financial contributions or requirement to pay training costs addressed to participating panel attorneys must be submitted to the COMMITTEE before circulation.

4. Any and all of the reports, information, data, material, statistics, books and records including bank statements, invoices and checks gathered, prepared or assembled by the CONTRACTOR pursuant to this Agreement are and shall be the joint property of the COMMITTEE and the CONTRACTOR and confidential according to the mandates of the federal and state laws, and they shall only be made available to any individual or other organizations, other than as provided herein, with the prior written approval of the COMMITTEE and in compliance with the canons of professional ethics and rules of the courts of the Commonwealth.
5. The CONTRACTOR shall make available to the COMMITTEE upon request any and all annual reports, certificates, forms, lists of attorneys on its panels and any documents prescribed by federal and/or state laws or regulations or pursuant to this Agreement.
6. This Agreement shall be contingent upon adequate appropriation by the Legislature to fund said Agreement and all other like Agreements. If the Legislature does not appropriate sufficient funds for the services described in this Agreement, the COMMITTEE shall thereupon be released from all obligations under this Agreement.
7. If the Committee determines that systemic budget cuts are necessary during the term of this contract, the Committee reserves the right to amend the contract, including reduction of the budget by up to 5% upon 30 days written notice, or for consideration of any greater reduction, by proposing amendments as set out in Article V. If the parties do not reach agreement on any budget amendment within 14 days, both parties shall have the right to terminate the contract as set out in Article IV.
8. The CONTRACTOR performing services under this Agreement shall be subject to any and all rules, regulations and standards approved and promulgated by the Supreme Judicial Court and/or the COMMITTEE relating to indigent representation in the courts of the Commonwealth.

9. The CONTRACTOR shall publicly advertise any staff positions which become available as a result of this Agreement and will make efforts to attract and hire minority candidates consistent with equal employment opportunity practices and guidelines of the COMMITTEE. The CONTRACTOR shall make affirmative efforts to recruit and select qualified attorneys of minority racial or ethnic background, qualified women attorneys and attorneys fluent in languages spoken by local ethnic minorities. The CONTRACTOR shall keep records of such recruitment efforts, applicants and panel composition, consistent with state and federal law and shall report to the COMMITTEE biannually information contained therein, on or before March 30 and September 30.

(a.) The CONTRACTOR shall not employ anyone, nor contract for services to be provided by anyone, other than as assigned counsel, if such person is a business partner or member of the immediate family, as defined in G.L.c.268A, of the CONTRACTOR Administrator or Corporate Director.

10. The CONTRACTOR shall provide a full-time position or equivalent for the Administrative functions required by this Agreement, in addition to any secretarial support provided by this Agreement. Other employment by a full time Administrator or job-sharing arrangements must be disclosed to the COMMITTEE. No administrator or secretarial support staff may have any arrangement with an attorney on their panel to be paid for services.

11. The CONTRACTOR shall provide attorneys with supervision, and necessary supporting services in accordance with Attachment A, Budget, which is herewith incorporated by reference into this Agreement.

12. The CONTRACTOR shall maintain accurate books, records and other compilations of data pertaining to the performance of the provisions and requirements of the Agreement to the extent and in such detail as shall properly substantiate claims for payment under the Agreement.

All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Agreement. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration

of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. In no event shall such records be destroyed prior to completion of an ongoing audit of such records.

13. The COMMITTEE, or its designee; the Governor, or his designee; the Secretary of Administration and Finance, and the State Auditor, or his designee, shall have the right, during workdays from 9 a.m. to 5 p.m., and with two weeks notice, to examine the books, records and other compilations of data of the CONTRACTOR which pertain to the performance of the provisions and requirements of this Agreement, except such documents which fall within the attorney-client privilege.

14. If the CONTRACTOR receives funds from sources other than the COMMITTEE, the Contractor will have available for review upon request by the COMMITTEE a Cost Allocation Plan that allocates indirect costs to particular cost objectives, such as grants, contracts, projects, services or other activities, in accordance with the relative benefits received. The Cost Allocation Plan will conform to generally accepted accounting principles and ensure that the COMMITTEE is charged a fair proportion of costs necessary to support more than one program or cost objective.

ARTICLE III

COMPENSATION

1. The COMMITTEE shall compensate the CONTRACTOR for services outlined in this Agreement. Transfers between line items must be submitted to the COMMITTEE for approval, unless directed otherwise.
2. The CONTRACTOR shall maintain monthly statements, in a form approved by the COMMITTEE, of services rendered and/or obligations incurred for supporting cost items in accordance with Attachment CPCS-A, in order to facilitate review by the COMMITTEE at periodic intervals. The CONTRACTOR shall submit an Annual Report in a form approved by the COMMITTEE at the end of the calendar year covered by the contract.

Proper documentation in a form prescribed by the COMMITTEE shall be maintained with each monthly statement; furthermore, accurate books and records will be kept, and will be available for review by the COMMITTEE upon request for a period of not less than six years subsequent to the close of the fiscal year of the records requested.

The COMMITTEE will pay the CONTRACTOR monthly an amount equal to 1/12 (one twelfth) of its annual budget.

3. Within ten (10) days of the last business day of each quarter during the contract period, the CONTRACTOR shall submit the monthly statements for the quarter that has just ended, in a form approved by the COMMITTEE, of services rendered and/or obligations incurred for supporting cost items in accordance with Attachment CPCS-A.
4. Notwithstanding any other provision of this Agreement, the COMMITTEE may elect not to make payment on occurrence of any of the following events:
 - a) If the CONTRACTOR fails to establish and maintain a current and adequate accounting system in accordance with standards established by the COMMITTEE;
 - b) If the CONTRACTOR has made any misrepresentation of a material nature as determined by the COMMITTEE in the statements, books or records it has maintained under this Agreement or in respect to any document submitted under this Agreement to the COMMITTEE;
 - c) If the CONTRACTOR defaults with respect to any of the provisions of this Agreement, after written notice of the default and a fourteen-(14) day opportunity to correct the default.
5. In no event shall the making of any payment on account of this Agreement by the COMMITTEE constitute, or be construed as, a waiver by the COMMITTEE of any breach of covenant or any default which may then exist on the part of the CONTRACTOR, and the

making of such payment by the COMMITTEE, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the COMMITTEE in respect to such breach or default.

6. Title to all non-consumable items (tangible personal property having a useful life expectancy of one (1) year or more, such as equipment and library resources) purchased with state funds provided under this Agreement and under prior Agreements to provide legal services with this COMMITTEE or with the Office of the Chief Administrative Justice of the Trial Court of the Commonwealth shall vest in the COMMITTEE if and when State funds are no longer appropriated for this project or this Agreement is terminated or expires. An updated inventory list shall be maintained and provided to the COMMITTEE on request. Upon termination of funds and termination or expiration of this Agreement, the CONTRACTOR shall submit to the COMMITTEE an inventory of non-consumable items and shall prepare such items for shipment, or delivery, or dispose of such items as directed by the COMMITTEE.

ARTICLE IV

TERMINATION

If the CONTRACTOR shall fail to comply timely with any of its obligations under this Agreement, the COMMITTEE shall have the right to terminate this Agreement and/or suspend any payments hereunder. Payments may be suspended at any time, and from time to time, by giving written notice of the suspension, which shall specify the cause or causes of suspension and the conditions under which payment will be resumed to the CONTRACTOR. Payments may be terminated by giving written notice of termination to the CONTRACTOR, which notice shall specify a termination date of at least sixty (60) days after mailing. Such notice shall be sent by certified mail--return receipt requested--to the last known address of the CONTRACTOR.

ARTICLE V

AMENDMENT

The parties may propose amendments to this Agreement by giving written notice at their respective offices of record. Such notice shall be sent by certified mail--return receipt requested--unless delivered in hand and acknowledged in writing.

ARTICLE VI

DURATION

This Agreement shall be effective beginning **xx/xx/xx**, and shall continue on a month-to-month basis, not beyond **xx/xx/xx**. Attachment CPCS-A, Budget, shall be effective for the period **xx/xx/xx**, through **xx/xx/xx**.

COMMONWEALTH OF MASSACHUSETTS
COMMITTEE FOR PUBLIC COUNSEL SERVICES

BY: _____ DATE _____
William J. Leahy
Chief Counsel

xxxxxxx COUNTY ASSIGNED COUNSEL PROGRAM, INC.

BY: _____ DATE _____
President

Attachment CPCS – C

Monthly Program Report

County _____

Date Submitted _____

I. Court Contact

A. Communication with Court Personnel

1. Judges:
2. Issued discussed:
3. Clerk:
4. Probation:
5. Other issues discussed:

II. Training Conducted

- A. Jury skills training scheduled dates:
- B. Other training conducted:

III. Selection Procedures conducted for new panel attorneys:

- A. Participants
- B. Number of applicants
- C. Number selected
- D. Attorneys leaving panel

IV. Staff Office Hours Worked

- | | |
|------------------|----------------------|
| A. Administrator | Worked/Vacation/Sick |
| B. Assistant | Worked/Vacation/Sick |

V. Attorney Oversight Actions

- A. Schedule changes
- B. Special conditions

VI. Complaint Summary

- A. Complaint Investigations Completed
 1. 1. Name Complainant/Attorney
- B. Complaint Investigations Outstanding
 1. Date of intake/name complainant/attorney
 2. Reason Investigation outstanding

VII. Resources Requested by Panel Attorneys

ATTACHMENT D

PERFORMANCE ASSESSMENT REPORT

Supervising Attorney:

Attorney Supervised:

Type of Supervision (Should include case file review. If attorney observed in court, please state procedure.)

Please list evaluated attorney's last 3 jury trials and other case files reviewed, including name of case, major charge, court and dates of trial. Please review at least one case in which the client was held awaiting trial.

Date of Evaluation:

For month of:

Please enter comments, where appropriate. Address comments to the considerations listed under each heading. Please state source of information (observation, file review, etc.) in each instance.

I. General Duties of Counsel

Areas for consideration: Treats client respectfully; Punctual in court; Maintains complete files on each case; Protects speedy trial rights; Regularly reviews cases with mentor; Appropriate appearance in court; Appropriate demeanor in court

Discussion (including references to specific cases reviewed):

Also note: Interviews client promptly (please note as to interview: location of first jail interview for clients in custody or location of first interview in an appropriate and private setting – not lockup or the courthouse – for clients not in custody, number of days after assignment, notes in case file) If attorney is not in compliance with CPCS visitation guidelines, note whether you have advised attorney of need for future compliance.

| <u>Client</u> | <u>In Custody?</u> | <u>Days after assign</u> | <u>Location</u> | <u>Notes in file?</u> |
|----------------------|---------------------------|---------------------------------|------------------------|------------------------------|
|----------------------|---------------------------|---------------------------------|------------------------|------------------------------|

1.

2.

3.

II. Arraignment

Areas for Consideration: Prepares bail hearing (Notes in file); Familiar with competency and criminal responsibility law; Protects client from identification advantageous to prosecution; Persuasive advocacy at bail hearing; Protects right to bail appeal; Promptly obtains police reports and court documents

Discussion (include references to specific cases reviewed):

III. Pretrial Preparation

Areas for Consideration: Promptly investigates facts of case; Files Motion for Funds for Investigator; Promptly contacts defense witnesses (File notes show date and content of interview); Attempts to interview prosecution witnesses and knows their availability (File notes show date of contact); Amends pretrial conference form as case law allows in defense interest; Prepares trial notwithstanding tentative plea negotiations; Formulates theory of the case

Discussion (include references to specific cases reviewed):

IV. Discovery Obtained

Areas for Consideration: Identification procedures, if any; Written and oral statements of defendant and codefendant; Statements and criminal records of witnesses; Official reports (police, medical, etc.); Inspection of physical evidence; Expert opinions

Discussion (include references to specific cases reviewed):

V. Pretrial Motions

Areas for Consideration: Relief from joinder; Suppression; Funds for investigation, expert, etc.; Familiar with Mass. Rules of Crim. Procedure governing pretrial motions

Please list pretrial motions filed in all case files reviewed.

Discussion (include references to specific cases reviewed):

VI. Trial

Areas for Consideration: Summonses favorable witnesses; Presents expert evidence, when appropriate; Plans effective direct and cross examination (File includes notes); Has available copies of witness statements, including police reports

Discussion (include references to specific cases reviewed):

VII. Jury Trial

Areas for Consideration: Appropriate Motions in Limine; Motion for voir dire questions (In file); Outlines of direct and cross examinations (In file); Opening and closing plans (Notes in file); Motion for jury instructions (In file)

Discussion (include references to specific cases reviewed):

VIII. Sentencing

Areas for Consideration: Advises client of potential additional punishments, parole eligibility, or immigration consequences; Explores specific alternatives to incarceration; Presents evidence or witnesses

Discussion (include references to specific cases reviewed):

IX. Post-trial

Areas for Consideration: Protects clients right of appeal; Requests tape or transcript of proceeding promptly; Files Motion to Revoke and Revise timely if appropriate or, in any case, if requested by client.

Discussion (include references to specific cases reviewed):

X. Recommendations for Improvement

List specific performance areas that you discussed with the attorney where improvement is necessary, and state what recommendations or remedial plans were offered to help the attorney strengthen any current weaknesses.

SUMMARY (please include general impressions of attorney and any other comments)

ATTACHMENT E

**DISTRICT AND JUVENILE COURT CERTIFICATION RECOMMENDATION
FORM**

1. Name of Attorney_____
2. Average number of Duty Days per month_____
3. Courts assigned to_____
4. Name of mentor_____
5. Name of Supervising Attorney_____
6. Number of jury trials_____
7. Number of bench trials_____
8. Performance Evaluation date_____
9. Performance Evaluation done by_____
10. Certification recommendation of Program Administrator:
Yes___ Yes, with conditions (see below)___ No___
11. Certification recommendation of Mentor:
Yes___ Yes with conditions (see below)___ No___
12. Certification recommendation of Supervising Attorney:
Yes___ Yes with conditions (see below)___ No___

Comments, including any conditions/requirements for continued participation on panel:

ATTACHMENT F

COMPLAINT: INTAKE REPORT

ATTORNEY NAME

ATTORNEY ADDRESS

ATTORNEY PHONE

COMPLAINT RECEIVED BY

INTAKE DATE

CLIENT NAME

CLIENT ADDRESS

CLIENT PHONE

COMPLAINANT NAME

COMPLAINANT ADDRESS

COMPLAINANT PHONE

RELATIONSHIP TO CLIENT

WHY CLIENT ISN'T CALLING

COURT

NEXT COURT DATE

COUNTY

CHARGES/TYPE OF CASE

PURPOSE OF NEXT COURT DATE

TYPE OF COMPLAINT: //CONTACT//PREPARATION//MISS
COURT//BEHAVIOR//SUBSTANCE ABUSE//OTHER

SUMMARY

ATTACHMENT G

COMPLAINT: INVESTIGATION REPORT

ATTORNEY NAME
ATTORNEY ADDRESS
ATTORNEY PHONE
CLIENT NAME
CLIENT ADDRESS
CLIENT PHONE
COMPLAINANT NAME
COMPLAINANT ADDRESS
COMPLAINANT PHONE
COURT
COUNTY
CHARGE/TYPE CASE
INTAKE DATE
REMAINS OPEN OVER 30 DAYS: REASON
INVESTIGATED BY
TYPE OF COMPLAINT: //CONTACT//PREPARATION//MISS
COURT//BEHAVIOR//SUBSTANCE ABUSE//(OTHER NARRATIVE)
PERFORMANCE EVALUATION CONDUCTED (//YES//NO//SCHEDULED DATE
DETERMINATION: //TRUE//FALSE
BASIS FOR DETERMINATION (NARRATIVE)
DISPOSITION:
//NO ACTION (NARRATIVE)
//SUBSEQUENT PERFORMANCE EVALUATION; DATE:
//MENTOR ASSIGNED — NAME: DURATION:
//CASE/DUTY DAY REDUCTION (NARRATIVE)
//CONDITIONS IMPOSED (NARRATIVE)

//REMOVAL FROM COURT/PANEL
//BBO REFERRAL
DISPOSITION REVIEW DATE
STATUS: //OPEN//CLOSED